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TESTE: LILLIE M. HART, CLERK 11:50pm  
By [Signature] D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

COMMONWEALTH OF VIRGINIA     )  
   )  
                  v.                             )     CR 03-3089, CR03-3090 & CR03-3091  
   )  
LEE BOYD MALVO                     )

NOTICE AND MOTION

Please take notice that I will, on October 23, 2003 at 2pm, or as soon thereafter as I may be heard, move the court, pursuant to § 19.2-168.1 of the Code of Virginia, to appoint Evan S. Nelson, a qualified mental health expert, to perform an evaluation of the sanity of the defendant at the time of the offense. I will also ask the court, pursuant to § 19.2-168.1, to order the defendant to submit to such an evaluation and to advise him of the consequences of a refusal to cooperate.

Respectfully submitted,

—  
ROBERT F. HORAN, JR  
Commonwealth's Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice and Motion was mailed, postage prepaid, and faxed to Michael Arif, Counsel for Defendant, 8001 Braddock Road, # 105, Springfield, Virginia 22151 and Craig Cooley, Counsel for the Defendant, 3000 Idlewood Avenue, P.O. Box 7268, Richmond, Virginia 23221 this 21<sup>st</sup> day of October, 2003.

—  
ROBERT F. HORAN, JR  
Commonwealth's Attorney